IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)
TUESDAY, THE FIFTEENTH DAY OF JUNE
TWO THOUSAND AND FOUR
PRESENT
THE HON'BLE MR JUSTICE A.GOPAL REDDY
WRIT PETITION NO : 6560 of 2003

Between:
K.R.Nagabushanam s/o K.R.Satyanaryanaiah, 40 years,
R/o D.No.17-4-51, RPFT Road., Hindupur., Ananthapur District.
..... PETITIONER

AND

1 The State Transport Appellate Tribunal.,A.P., rep. by its Presiding Officer,
Manoranjan Complex., M.J.Road., Hyderabad
2 The Regional Transport Authority, Anantapur rep.by its Secretary
3 The A.P.S.R.T.C., rep. by its Managing Director, Musheerabad, Hyderabad

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court will be pleased to issue an appropriate Writ, order or direction more particularly one in the nature of Writ of Certiorari, calling for the records relating to the order dated 14-2-2003 in R.P.No.3/2002, on the file of the State Transport Appellate Tribunal, A.P., Hyderabad and quash the same.

Counsel for the Petitioner : MR.JOHN RAJENDRA PRASAD

Counsel for Respondent No.1 : None appeared.

Counsel for Respondent No.2 : G.P. for Transport.

Counsel for the Respondent No.3: Sri K.Srinivasa Rao

The Court Made the Following :

ORDER:

The petitioner, by invoking certiorari jurisdiction of this Court, seeks to set aside the order passed by the State Transport Appellate Tribunal in R.P.No.3 of 2002 dated 14.02.2003, after calling the records from the Tribunal.

The petitioner, being an existing operator of town service route, Hindupur Municipal limits on Bangalore road to Sree Rangarajupalli, applied to the Regional Transport Authority, Anantapur for grant of variation of permit to the existing town service route by extension from Mullamutukapalli up to Srirangarajupalli for a distance of 1.8 KMs in respect of the bus operated by him. The Regional Transport Authority in its meeting held on 23.04.2001 taking into consideration the proceedings of the Transport Commissioner dated 24.8.2000, granted the proposed variation of permit to the applicant in public interest over-ruling the objection made by A.P.S.R.T.C. that the route for which variation sought for is a new route, and unless the route is formulated under section 68(3)(ca) read with section 80(3) of the Motor Vehicles Act (for short the Act), the Regional Transport Authority can not grant such variation which amounts to a new permit. Aggrieved by the orders passed by the Regional Transport Authority, A.P.S.R.T.C. carried the matter in revision before the State Transport Appellate Tribunal, Hyderabad.

The Appellate Tribunal after considering the

material on record, held that the route in question is not formulated by the government nor was existing. The Tribunal followed the law declared by this Court in *N.Swarnalatha Vs. Managing Director, A.P.S.R.T.C., Hyderabad & others*,[1] wherein it was held that if the route is not formulated, no application would lie for variation. The petitioner's contention that in view of the permission granted by the Transport Commissioner under Rule 258(2)(ii) of the A.P. Motor Vehicles Rules formation of route under section 68(3)(ca) of the Act is not required, was also considered and rejected by the Tribunal in view of the law laid down in the aforesaid decision. Accordingly, the Appellate Tribunal rejected the contentions raised by the petitioner herein and allowed the revision by setting aside the order passed by the Regional Transport Authority. The Appellate Tribunal further observed that the application seeking extension of route from Mullamothukapalli to Srirangarajupalli is to be treated as an application under section 80(3) of the Motor Vehicles Act for grant of fresh permit.

The learned counsel for the petitioner contends that under proviso to sub-section (3) of Section 80 of the Motor Vehicles Act, an application made by the holder of a stage carriage permit for variation can not be treated as an application for a fresh permit.

A Full Bench of this court in *L.Raghuraman Vs. State Transport Appellate Tribunal, A.P., Hyderabad &*

others[2] held as follows:-

> "Once a scheme is published under Section 68-D of the Act the area of which it relates is called "notified area" and the route to which it relates is called "notified route"…It is clear from the above that after the approved scheme is published the embargo under Section 68-FF of the Act operates even to the grant of variations of a permit in respect of any notified area or notified route, except in accordance with the provisions of the scheme"

The State Appellate Tribunal considered the sketch prepared by the Motor Vehicles Inspector which shows that the route from Mullamotukapalli to Srirangarajupalli (noted in black colour line) is unserved portion. In view of the same, the submission of the learned counsel that the route was in existence and A.P.S.R.T.C. operated services till three years back, was also negatived, which is a pure finding of fact.

I see no infirmity discernible from the order passed by the Tribunal which warrants correction by this court in exercise of certiorari jurisdiction.

The writ petition fails and is accordingly dismissed. No costs.

Assistant Registrar

/True Copy/
Section Officer.

DRK/KMR

Copy to:
1)The Presiding Officer, State Transport Appellate Tribunal, Manoranjan
Complex, M.J.Road, Hyderabad.
2) The Secretary, Regional Transport Authority, Anantapur.
3)The Managing Director, A.P.S.R.T.C., Musheerabad, Hyderabad.
4) The G.P. for Transport, High Court Buildings, Hyderabad. (o.u.t.)
5) Two C.D.copies.

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[1] 2001(4) ALD 257 (D.B.)

[2] 2001(5) ALD 711 DB